IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Patrick D. Bradd et al.	§	Art Unit:	2619
		§		
Serial No.:	09/473,726	§		
		§	Examiner:	Robert W. Wilson
Filed:	December 28, 1999	§		
		§		
For:	Voice Over Packet Network	§	Atty. Dkt. No.:	11546IDUS01U
	Arrangement and Method	§		(NRT.0212US)
		§		
		§		

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

<u>PRE-APPEAL BRIEF REQUEST FOR REVIEW</u>

Dear Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

Independent claim 1 was erroneously rejected as obvious over Berg alone. Claim 1 recites a communications network arrangement providing voice over IP or voiee over ATM services, where the network arrangement includes:

a **first media gateway controller** controlling a first gateway and **provided with a first operating protocol**, a **second media gateway controller** controlling a second gateway and provided with a **second, different operating protocol**, and a gateway address translator incorporating proxies for said first and second gateways respectively, wherein said gateway address translator provides a relay function for messaging between each of said first and second media gateway controllers and the corresponding one of the first and second gateways, and a virtual bearer function for messaging between said first and second media gateway controllers.

As conceded by the Office Action, Berg fails to disclose a first media gateway controller provided with a first operating protocol, and a second media gateway controller provided with a second, different operating protocol. Thus, Berg also fails to disclose a gateway address translator that has a virtual bearer function for messaging between first and second media gateway controllers that are provided with two different operating protocols.

In the rejection of claim 1, the Office Action referred to a "second embodiment" of Berg, which the Office Action argued was disclosed by column 6, lines 53-67, of Berg. This column 6 passage of Berg refers to the media gateway controller 120 being implemented by a protocol converter configured to act as a virtual switch. Berg, 6:52-54. This explanation is consistent with the earlier explanation in column 6 of Berg that the media gateway controller 120 implements a "virtual switch" and is responsible for processing and routing signaling messages that are exchanged to set up and tear down a voice connection. *Id.*, 6:23-26. Significantly, note that the media gateway controller 120 of Berg converts protocols of the originating node 100 and the terminating node 160 (see Fig. 1 of Berg). Thus, the "second embodiment" of Berg noted by the Office Action also refers to the media gateway controller implemented by a protocol converter to convert protocols of an originating node and a terminating node.

There is nothing in Berg to hint at providing two different operating protocols in two corresponding media gateway controllers. As conceded by the Office Action, the media gateway controllers 120 of Berg are provided with the **same** operating protocol. 12/30/2008 Office Action at 2. The passage in column 6, lines 53-67, of Berg merely refers to the fact that the media gateway controller 120 of Berg is implemented by a protocol converter to convert between protocols of originating and terminating nodes. No hint is given here of first and second media gateway controllers provided with two different operating protocols.

The Office Action argued that it would have been obvious to one of ordinary skill in the art "to add the protocol converter capability of the second embodiment of Berg to the second media gateway controller of the first embodiment of Berg [*sic*] in order to build a system which utilizes different protocol [*sic*] in order to interoperate with different carriers such as LEC and long distance carriers in order to interoperate." *Id.* at 3. Incorporating the protocol converter into a second media gateway controller of Berg does not modify the operation of the media gateway controller. In fact, the media gateway controller 120 in Fig. 1 of Berg (characterized by the Office Action as being the "first embodiment") is described as being a virtual switch for converting between protocols of the originating node and the terminating node – adding the same protocol converter to a second media gateway controller would make the second media gateway controller perform exactly as the first media gateway controller. In other words, if Berg is implemented with multiple media gateway controllers, each of such media gateway controllers would implement the same operating protocol, which is contrary to the subject matter of claim 1.

The obviousness rejection of claim 1 over Berg is therefore clearly erroneous.

Independent claims 9, 12, and 15 are allowable over Berg for similar reasons as claim 1.

Independent claim 13 was also erroneously rejected as purportedly obvious over Berg and Kamarczyk. Claim 13 recites a method of interfacing media gateway controllers and media gateways having different operating protocols in a communications network arrangement providing voice over IP or voice over ATM services, the method comprising:

- creating software proxies of said media gateways; and

- said software proxies communicating with respective ones of said media gateway controllers utilizing respective operating protocols, wherein the media gateway controllers are provisioned with corresponding addresses of the software proxies rather than corresponding addresses of said media gateways.

As conceded by the Office Action, Berg does not disclose "creating software proxies of said media gateways," and "provisioning software address of the proxies rather than the corresponding media gateways." 12/30/2008 Office Action at 10. Instead, the Office Action cited Kamarczyk as purportedly disclosing the creation of software proxies of media gateways. Specifically, the Office Action cited column 4, lines 5-48, of Kamarczyk, which refers to a softswitch 52 function (shown in Fig. 3 of Kamarczyk) that functions as an Internet central office and provides traditional central office functions and capabilities to the Internet user community. Kamarczyk, 4:6-10. The softswitch 52 allows IP-enabled users to have access to telephonic services without regard to the underlying transport technology. *Id.*, 4:11-13. The cited column 4 passage of Kamarczyk notes that users are coupled to the Internet central office via a residential service gateway 56, where the residential service gateway 56 provides a proxy server, TCP/IP hub, firewall, residential gateway, and residential service client software functionality.

However, the proxy server that is part of the residential service gateway 56 of Kamarczyk does not constitute software proxies of media gateways that communicate with respective media gateway controllers **using respective operating protocols**. Therefore, even if Berg and Kamarczyk could be hypothetically combined, the hypothetical combination of references would not have led to the subject matter of claim 13. Therefore, the obviousness rejection of claim 13 is clearly defective.

Dependent claims are allowable for at least the same reasons as corresponding independent claims. In view of the allowability of base claims, the obviousness rejections of dependent claims have also been overcome.

In view of the foregoing, reversal of all final rejections and allowance of all claims is respectfully requested. The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 14-1315 (11546IDUS01U).

Respectfully submitted,

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